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**DIVISION OF WORKFORCE DEVELOPMENT**

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**DWD ISSUANCE 04-04**

**Subject:** Workforce Investment Regions Operating Guidelines for On-the-Job Training (OJT) Programs and Related Elements of other Programmatic Activities.

1. **Purpose:** Minimum standards for operating federally funded OJT programs.
2. **Substance:** Enrollment in OJT is the culmination of a participant's assessed needs to become self-sufficient. Program operators must assess and determine if the participant lacks adequate work experience and/or occupational training and is in need of training services to meet an employer's minimum hiring requirements, or possesses special needs in accordance with written Workforce Investment Board (WIB) policy. Prior to enrollment in OJT, all Program Operators must record their assessment decisions on the participant's Individual Employment Plan (IEP). Program operators must develop adequate systems and internal procedures for OJT and other programs in order to ensure full compliance with all aspects of the applicable program.

Payments to employers for OJT shall be in compliance with program guidelines. Regions must ensure that payments to employers are in compensation for the extraordinary costs associated with training participants and in compensation for the costs associated with the lower productivity of such participants. Employers, however, are not required to document these extraordinary costs.

Prior to Workforce Investment Act (WIA) OJT approvals, WIBs should notify Division of Workforce Development's (DWD) Customized Training Unit to avoid any potential duplication with the state's training funds.

The following guidelines apply to federally funded OJT projects, including those approved through the Missouri Advance Program or other WIA 15% discretionary projects and Missouri Career Assistance Program (CAP), formally Temporary Assistance for Needy Families (TANF).

Specifically, WIBs must develop systems that ensure the following:

### **I. Assessment and Programming**

Regardless of the funding stream, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's IEP.

#### **Youth On-the-Job Training (WIA)**

In accordance with WIA Section 129(C)(2)(D) 20 CFR Part 652 Section 664.460(d), OJT positions for youth in most cases are not an appropriate work experience activity for youth participants under age 18. Local program operators may choose, however, to use this service strategy for eligible youth, when it is appropriate, based on the needs identified by the objective assessment of an individual youth participant.

#### **CAP On-the-Job Training**

A CAP participant can be dually enrolled in WIA Adult services.

#### **Incumbent Worker Training (WIA-15%)**

The WIA (Section 134(a)(3)(A)(iv)(I)) defines an Incumbent Worker as an individual who is employed (20 CFR 665.220), that does not necessarily have to meet eligibility requirements for intensive and/or training services for employed adults and dislocated workers (refer to 20 CFR 663.210 and 663.220(b)). WIA requires funding for incumbent worker training programs to be drawn from the state's combined adult, youth, and dislocated worker 15% funds or on a fee-for-service basis (refer to 20CFR 667.200 (a)(8)).

#### **Employed Workers (WIA)**

OJT contracts may be written for employed workers when the employee is not earning a self-sufficient wage as determined by Local Board policy; the requirements in 20 CFR 663.700 are met; the OJT relates to the introduction of new technologies, introduction to new production or service procedures, and upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the

Local Board. Formula and incentive funds may be used to create career pathways programs for upgrading the skills of currently employed individuals who are less than self-sufficient which could, through agreements with employers, open entry level positions for other participants.

Regardless of the funding source, all OJT systems must provide reasonable and documented monitoring and audit trails that substantiate the type of training need associated with the participant.

### **Individual Employment Plan**

DWD requires program operators to complete an IEP for all participants, in accordance with applicable federal, state, and local regulations.

The IEP must be jointly developed between the participant and case manager to:

- Document information about any barriers to training and employment (such as disabling conditions, child care difficulties, work limitations, education);
- Develop action plans to deal with such barriers;
- Develop information about education and career goals; and
- Identify the need for training.

This information is then used to develop a comprehensive package of appropriate services that will address barriers and enable the participant to either enter employment or an educational component that meets their educational or occupational goals and will assist the participant with reaching self-sufficiency.

The IEP must include, at a minimum, the following elements:

- Participant name and social security number;
- Date IEP initiated;
- Current/Prior Educational status;
- Current/Prior work history and experience;
- Assessment of participant's skills; assessment of participant's interests, a determination of short-term and long-term educational and occupational goals;
- Test/assessment scores for basic skills level, interest, aptitude, etc.;
- Identification of barriers to employment that hinder the participant's ability to find and maintain an unsubsidized job, determination of supportive service needs;

- A plan of action to overcome barriers identified and to enter unsubsidized employment;
- A listing of services that will address participant needs. This may be in the form of a listing of all services available through a partner agency and selection of those services the counselor and participant have chosen;
- Post-program follow-up service needs;
- Disclaimer that the IEP is not a guarantee or contract to provide services; and
- Participant and counselor signatures.

The information on the IEP should have back up documentation, when appropriate. This may include copies of the various testing and assessment materials given to the participant. Case notes may be used to document the IEP update process, but must be clearly identified as such. Case managers/counselors are required to keep the IEP updated according to local standards. Local monitors must regularly review each Title I and CAP participant's progress in meeting program and service strategy objectives, including the participant's acquisition of basic/occupational skills, and the adequacy of supportive services provided as related to OJT.

Once the preliminary IEP information has been gathered and the assessment process is completed, the following considerations should be addressed:

- Does the participant need to learn skills for the desired position, or have those skills already been acquired?
- Does the participant have a need for training?
- What is the best way, for the person to obtain the skills needed (i.e., OJT or Occupational Skills training)?
- Can the position be obtained without subsidizing the employer?

If a need for OJT cannot be documented, a direct placement or referral to other services should be considered. If a need for OJT has been determined and recorded on the IEP, a referral may be made to appropriate employers.

Factors used to select OJT as the most appropriate referral may include:

- Participant's need for occupational training, participant's job readiness, match of referral to the participant's needs, interests and employment objectives; and
- Capability of the participant to complete the training.

IEP documentation of a participant's appropriateness for OJT is required prior to employer selection.

### **Credential Attainment**

Local regions should follow the guidance of DWD Issuance 07-00 WIA Credential Definition (**Attachment 3**) for OJT training certification for a recognized credential. The credential measure for WIA participants will be gathered locally, tracked in Toolbox and included in the local WIA performance measurement.

### **Employer Referrals**

Because of service marketing, employers may refer job applicants to the Career Centers for potential OJT enrollment.

Written policy on employer referrals should include the following:

- Participant's eligibility must be determined prior to employment; no pre-hires or period of employment prior to development of an OJT contract and participant training plan are acceptable; and
- When an employer refers a potential participant to the program operator prior to hiring, the program operator must utilize normal eligibility assessment and enrollment procedures.

### **Specific Vocational Preparation**

Specific Vocational Preparation (SVP) is to be retained as a measure of the required level of specific occupational training and experience time. The different levels of SVP have been incorporated with Occupational Information Network (ONET) Career Exploration Tools. The former Dictionary of Occupational Titles (DOT) codes have been divided into groups called Occupational Units (OU). Some OU's are one to one translations of DOT occupations while some DOT codes are grouped into OU descriptions. The OUs have been further grouped into stratum of needed preparation called Job Zones.

Job Zones define the amount of education and occupational preparation necessary to exhibit an average performance for a job. There are five Job Zones:

- Job Zone 1 occupations that need little or no preparation;
- Job Zone 2 occupations that need some preparation;
- Job Zone 3 occupations that need medium preparation;

- Job Zone 4 occupations that need considerable preparation; and
- Job Zone 5 occupations that need extensive preparation.

These Job Zones are coordinated with the OU groupings and then attached to an SVP level.

On-the-Job Training activities require a time schedule for participants to establish employment readiness. The entire explanation and charts are available at [www.onetcenter.org/resToolsGen.html#SVP](http://www.onetcenter.org/resToolsGen.html#SVP), "Stratifying Occupational Units by SVP."

## **II. Contracting & Consideration of Employers**

Following are examples of questions that should be answered prior to contracting with an employer by the OJT contractor.

Is this a new or established business?

What has been the turnover for this business and/or this job?

Does the business appear to be financially stable?

What is the demand for this job in the local labor market?

What are the wages and benefits?

Does the employer pay the employer wage taxes?

What is history or pattern of layoffs?

Is this seasonal employment?

Is a collective bargaining agreement in place? If so, is the training consistent with the collective bargaining agreement?

Is this employer relocating from another labor market area? WIA Section 181(2)(b)(2).

What have been the hiring practices of this employer in general?

What type of work environment exists, safety and health, supervision, and training?

Is this business receiving any other assistance, such as funding through the Department of Economic Development, Missouri Customized Training Program?

OJT is provided under a contract with an employer in the public, private non-profit, or private sector. The local program operator must not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

An employer orientation must be completed with each employer and/or employer representative and will discuss at a minimum the contract provisions and training plans. Some employers may be considered on a case by cases basis depending on the type of work and training offered (i.e., farm related employment).

OJT employer contracts and employer OJT orientation forms must also ensure that participants will not be employed in sectarian instruction or religious worship. Equal opportunity in all services is provided without regard to race, sex, color, religion, national origin, age, disability, citizenship (applies to beneficiaries only), or participation in program activities.

The region must have a policy in place to handle employer disputes and contract modification requests. Contracts must include references to sections (labor standards, grievance procedures, compliance with all applicable business licensing and taxation, provisions covering liability, sanctions, debt repayment and the employer's commitment to retain the participant(s) upon training completion).

Contracts may not be entered into with temporary or intermittent employment or employment in an occupation for a fee.

DWD recognizes that different contracting methods are in use by the WIB Regions. The Regions are encouraged to review their present contracting standards in relation to DWD and federal monitoring requirements.

### **Training Plans and Training Lengths**

After determination of the position in which the participant will be trained, an OJT training plan must be developed. This plan will be a formal and written program of the structured job training that will provide participants with an orderly combination of instruction in work maturity skills, general employment competencies and occupationally specific skills that will enable the participant to work toward self-sufficiency.

The training plan must include:

- Number of participants to be trained in each occupation;
- Name of participant;

- Social Security Number;
- Occupation;
- ONET Code;
- SVP Level;
- Starting and ending dates of training;
- Number of hours per week trainee will work;
- Initial wage rate and scheduled raises (if any);
- OJT reimbursement dollar amount and the percentage;
- Method and maximum OJT obligation amount;
- Name or job title of person responsible for training;
- A job description or training outline that reflects what the participant will learn;
- List of specific skills or tasks the employer agrees to provide to the participant:  
List tasks focusing on job duties and tasks involved in the work activity;  
Use ONET and/or company job description as a basis to begin listing skills or tasks to the extent they are accurate;  
Keep each skill description concise and comprehensive; and  
Individual tasks measurable and observable.
- Any other separate training that may be provided;
- Signature of trainee and date; and
- Signature of employer/trainer and date.
- OJTs must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience and the participant's IEP. Each participant's length of training must be consistent with an overall WIB policy that specifies the training time (e.g., ONET and/or the employer training plans).
- Individuals in OJT shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly employed in similar occupations by the same employer and who have similar training, experience and skills. Such rates will be in accordance with applicable law, but in no event less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable state or local minimum wage.

### **Payments to Employers for OJT**

Payments to employers for OJT shall be in compliance with program guidelines. Regions must ensure that payments to employers are in compensation for the extraordinary costs associated with training participants and in compensation for the costs associated with the lower productivity of such participants. Employers, however, are not required to document these extraordinary costs.

Reimbursement policy will be based on an invoice system that clearly documents the number of hours worked each day by the participant and rate of pay for the time period. Invoices must be signed by both the participant and the employer or only by the employer if accompanying documentation (timesheets/time cards) is signed by the participant and reconciled to the invoice. DWD requires that employers establish record keeping and record retention systems that assure employer records adequately support OJT invoices. Payments to employers must be based on scheduled raises and regular pay increases, if they occur. Payments to employers cannot be made on overtime hours, shift differential, premium pay, other non-regular wages paid by the employer or periods of time in which no training occurs (illness, holidays, plant downtime or other events).

The DWD-PO-220 OJT Monthly Progress Report/Invoice has been included in the guidelines as an example of report/invoice. (**Attachment 1**) All information on documents related to the invoice must support the invoice information.

Employers may not pay OJT participants in cash.

### **Documentation Requirements**

Descriptions of training contained in OJT training plans must be consistent with the training being provided. Regions must develop means to document the participant has been trained in the contracted occupation.

The program operator must monitor training, invoice, and reimbursement systems on a pre-determined, systematic and documented basis. All employers must be required by contract to maintain their own internal supporting documentation in accordance with contractual record retention requirements. WIBs must also establish provisions for access to those records, including such contingencies as employer bankruptcy, closure or business relocation.

### **III. Monitoring and WIB/DWD Oversight**

Monitoring is the responsibility of the program operator. The duty may be assigned to another designated entity or individual. The monitoring will include participant training and corresponding employer payroll records. On site monitoring of OJT employers and other subcontractors to verify compliance with subcontract terms, to ensure validity and propriety of the reimbursement amounts claimed is required. On site monitoring of trainees for program compliance must also be done.

In evaluating employer performance for pre-contracting and re-contracting purposes, the following criteria should be considered when possible:

- Number of positions funded;
- Number of positions filled;
- Appropriate retention rate;
- Participant turnover rate;
- Percent of money obligated;
- Identification of poor or incomplete training;
- Decrease in wages after training;
- Participant dismissal after training or during follow-up period;
- Layoffs;
- Participant grievances;
- Collective bargaining agreements;
- Displacement of currently employed workers by WIA participants; and
- Business relocations to utilize area WIA trainees.

The WIB or its designee must conduct sub-state monitoring of its programs as outlined in DWD Issuance 02-01. DWD will monitor for program compliance through Toolbox monitoring and during the regions annual continuous improvement review.

### **IV. Reporting**

OJT fiscal reporting will be shown in the monthly program expenditure report submitted by the regions. Program compliance will be reviewed and included as part of the sub-state monitoring report.

- 3. Action:** This issuance/guidance supersedes the state level operating guidelines for OJT programs and systems funded under WIA and CAP.

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This issuance is effective for all OJT systems and contracts entered into and participants served on or after the date of this issuance. WIBs must develop written policy for inclusion in local WIA plans and modify their OJT forms practices and procedures as appropriate.

4. **Contact:** Direct questions or comments regarding this Issuance to Roger Baugher, Program Operations (573) 751-7897 or assigned Regional Coordinator.
5. **Attachments:**
  1. DWD-PO-220 OJT Monthly Progress Report/Invoice
  2. WIA Regulation References
  3. DWD Issuance 07-00 Credential Definition

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